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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 STRIKE 3 HOLDINGS, LLC,
12 Plaintiff,

13 vs.

14 JOHN DOE subscriber assigned IP address
15 73.252.213.89,
16 Defendant.

Case Number: 5:17-cv-05963-NC

**ORDER ON *EX-PARTE* MOTION FOR
LEAVE TO SERVE THIRD PARTY
SUBPOENA PRIOR TO A RULE 26(f)
CONFERENCE**

Date: Wednesday, December 6, 2017
Time: 1:00 PM
Place: Courtroom 7 – 4th Floor
Honorable Nathanael M. Cousins

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18 **THIS CAUSE** came before the Court upon Plaintiff's *Ex-Parte* Motion for Leave to
19 Serve a Third Party Subpoena Prior to a Rule 26(f) Conference (the "Motion"), and the Court
20 being duly advised does hereby:

21 **FIND, ORDER AND ADJUDGE:**

22 1. Plaintiff has established that "good cause" exists for it to serve a third party
23 subpoena on Comcast Cable (hereinafter the "ISP"). *See UMG Recording, Inc. v. Doe*, 2008
24 WL 4104214, *4 (N.D. Cal. 2008); and *Arista Records LLC v. Does 1-19*, 551 F. Supp. 2d 1, 6-
25 7 (D.D.C. 2008);

26 2. Plaintiff may serve the ISP with a Rule 45 subpoena commanding the ISP to
27 provide Plaintiff with the true name and address of the Defendant to whom the ISP assigned an
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1 IP address as set forth on Exhibit A to the Complaint. Plaintiff shall attach to any such
2 subpoena a copy of this Order;

3 3. Plaintiff may also serve a Rule 45 subpoena in the same manner as above on any
4 service provider that is identified in response to a subpoena as a provider of Internet services to
5 one of the Defendants;

6 4. If the ISP qualifies as a “cable operator,” as defined by 47 U.S.C. § 522(5),
7 which states:

8 the term “cable operator” means any person or group of persons

9 (A) who provides cable service over a cable system and directly or through one
10 or more affiliates owns a significant interest in such cable system, or

11 (B) who otherwise controls or is responsible for, through any arrangement, the
12 management and operation of such a cable system.

13 it shall comply with 47 U.S.C. § 551(c)(2)(B), which states:

14 A cable operator may disclose such [personal identifying] information if the
15 disclosure is . . . made pursuant to a court order authorizing such disclosure, if
16 the subscriber is notified of such order by the person to whom the order is
17 directed.

18 by sending a copy of this Order to the Defendant; and

19 5. Plaintiff may only use the information disclosed in response to a Rule 45
20 subpoena served on the ISP for the purpose of protecting and enforcing Plaintiff’s rights as set
21 forth in its Complaint.

22 **DONE AND ORDERED** this 31st day of October, 2017.

23 By:
24 UNITED STATES DISTRICT COURT

